

12/28/77 [2]

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THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
	X	MONDALE
		COSTANZA
X		EIZENSTAT
	X	JORDAN
		LIPSHUTZ
X		MOORE
		POWELL
		WATSON
X		McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	GAMMILL

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE WHITE HOUSE
WASHINGTON

12/28/77

Mr. President:

No objection from Hamilton.

Rick

THE WHITE HOUSE
WASHINGTON

December 28, 1977

The Vice President
Hamilton Jordan

The attached is forwarded to
you for your information.

Rick Hutcheson

RE: WATER PROJECT FUNDING IN
JANUARY BUDGET

THE WHITE HOUSE
WASHINGTON

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	VOORDE
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THE WHITE HOUSE
WASHINGTON
December 28, 1977

Stu Eizenstat
Frank Moore
Jim McIntyre

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

cc: The Vice President ^{Rick Huteson}
Hamilton Jordan

RE: WATER PROJECT FUNDING IN
JANUARY BUDGET

ADMINISTRATIVELY CONFIDENTIAL

THE PRESIDENT HAS SEEN

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR

FROM

SUBJECT:

THE PRESIDENT

STU EIZENSTAT

JIM MCINTYRE

FRANK MOORE

Water Project Funding
in January Budget

This memo follows up on our discussions of funding R. B. Russell, Cache Basin and the other water projects funded by the Congress against our recommendation in FY 1978, and on other water project issues raised at your meeting with environmentalists.

I. FY 1979 Budget

In view of the ongoing water policy review and the changing politics of at least some of these projects, we recommend funding these projects in the January Budget, but including an explanation in the document that our recommendations are subject to the outcome of the Water Policy Review.

At the completion of the Review, we would consider budget amendments for new starts and possible deletions in the context of the reformed criteria. It is also our understanding that we should proceed with deauthorization legislation for projects zero-funded by the Congress last year (with the exception of two Interior Department projects which require further study). The deauthorization effort need not be tied to the Budget or Water Policy Review process. However, Frank's staff feels that it will be extremely difficult to move deauthorization legislation on the Hill, because the authorizing committees have their own procedures and timetables for deauthorizing inactive projects.

You should know that politically it is quite likely that we could now succeed in deleting the Cache Project. Senator McClellan's replacement strongly opposes the project and Senator Bumpers has not been strongly for it. Support is mixed in the House,

To: Jim Ste. Frank

I cannot in good

Conscience recommend

that all these be funded.

My budget is what I

think should be funded.

We won't make

another

major

battle on

these.

J

This would
could still
apply -

although the Congressman in whose District the project is located (Alexander) supports it. The principal problem with deleting it now is that it would appear inconsistent with funding the others. However, that is an option which could be carried out after further consultation on the Hill.

R. B. Russell, on the other hand, is strongly supported in the Senate and it is unlikely we would succeed in deleting this project short of vetoing an appropriations bill. Butler Derrick has indicated that he still opposes the project but does not want to go through the fight again unless we can guarantee a victory, which would probably entail an appropriations bill veto in an election year.

Columbia Dam (TVA) is a unique case. The project appears to violate the Endangered Species Act. David Freeman has suggested that a smaller, more cost-effective project could be carried out and perhaps politically supported by the Tennessee delegation. The OMB allowance on this project is proposed to be accompanied by guidance to TVA to investigate an alternate project and not to spend funds in violation of the Endangered Species Act.

Decision:

Delete none now, but leave opportunities
for revision at the end of the Water
Policy Review (recommended)

Delete Cache Basin now

Delete both Cache and Russell

Delete all projects funded by Congress
against our recommendation *with some*
exceptions (CUP)
Other

II. Projects Violating Existing Law

One of the most significant points raised at the environmentalists' meeting with you on water projects is the fact that some water projects in violation of

existing law are routinely funded by the Congress and the agencies building them are routinely defended by the Justice Department. Further research has indicated serious legal problems with a number of projects, including some of the projects we unsuccessfully attempted to delete from the Budget last year.

In addition, the Administration is in a particularly awkward position on TVA's Tellico Dam -- the Solicitor General's office has appealed the Endangered Species Act lawsuit to the Supreme Court where a decision in favor of TVA could have negative ramifications even beyond the Tellico Dam itself. You may be receiving an options memorandum from Justice on this specific case.

The types of violations and suspected violations of existing laws include:

- curable procedural problems such as lack of wild-life mitigation plans and lack of historical resources surveys;
- substantive problems such as violations of the Endangered Species Act and of water quality laws; and
- problems which could be cured only by further Congressional authorization, such as agencies exceeding authorized cost ceilings or carrying out modifications of projects beyond the scope of existing authorizations.

In addition, it is obvious that many projects violate wetlands and floodplain policies.

A number of water projects are in litigation on these and other points. These include Richard B. Russell (litigation in progress) and Columbia (suit soon to be filed). It should also be noted that some of the projects "passed" by the Administration's review last spring have serious legal problems and are in litigation, such as Tennessee-Tombigbee.

Recommendation:

We would recommend that we confidentially ask the Justice Department to analyze this problem, with the two following goals:

1. To provide guidance for the agencies regarding when the Justice Department will or will not defend lawsuits under the relevant statutes, similar to Justice Department guidance on the Freedom of Information Act;
2. To provide guidance to the Executive Branch with respect to projects where there is a violation of law for:
 - where possible, curing legal problems to minimize litigation;
 - seeking alternatives or project modifications where needed;
 - making budget decisions in the future; and
 - planning future projects.

We believe this assistance from the Justice Department could be a very positive influence on the agencies, could minimize litigation on projects where the government is clearly in violation of existing laws, and could help us avoid "hit lists" while still providing the basis for changes and in some cases termination of unsound projects.

The request should be confidential and low key.

Decision:

Confidentially request Justice to analyze water project compliance with existing statutes

Do not pursue

Other

✓

III. Assistant Secretary of Army for Civil Works

One other follow-up item from the environmentalists' meeting is the continuing vacancy in the post of Army Assistant Secretary for Civil Works. We agree with the environmentalists that we have been hampered in our ability to pursue new Corps policies partly because of that vacancy. Butler Derrick also feels very strongly that this vacancy should be filled. There is no policy person with authority over the Corps of Engineers who has expertise in the water resources area and who supports your water policy views. Before the decision was made to leave the post vacant, several excellent candidates were under consideration for the job.

You will recall, however, that during the budget session on the Corps, Secretary Alexander stated that there were two reasons for Brown's decision to leave the post vacant:


- You had asked each Department Secretary to cut back on the number of offices and appointments to be filled, and this is part of DOD's response to that request.
- Under the current arrangement, the Corps reports directly to the Secretary of the Army, providing more direct secretarial direction and supervision.

Decision:

Encourage Secretary Brown to fill
vacancy (we recommend)

Do not pursue (Brown's view)

Other



THE WHITE HOUSE
WASHINGTON

December 28, 1977

Stu Eizenstat
Jim McIntyre
Secretary Schlesinger

The attached was returned in the President's outbox and is forwarded to you for appropriate handling. Stu - Please inform Sec. Blumenthal of the President's decision.

Rick Hutcheson

RE: FOLLOW-UP MATERIALS ON NEP
BUDGET IMPLICATIONS MEETING

cc: Frank Moore
Charles Schultze

THE WHITE HOUSE
WASHINGTON

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	FOR INFORMATION
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Stu - p/s notify Blumenthal

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	STRAUSS
	VOORDE
	WARREN

THE WHITE HOUSE
WASHINGTON

12/28/77

Mr. President:

Blumenthal & Schlesinger
concur. Schultze has no
comment.

Rick



THE PRESIDENT HAS SEEN.
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

To Jim, Stu, Jim
C

MEMORANDUM FOR

THE PRESIDENT

FROM:

JAMES T. MCINTYRE, JR.
STUART EIZENSTAT

W. Bush
Stu
(for)

SUBJECT:

Follow-up materials on NEP budget implications meeting

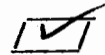
Attached are summary and detailed fiscal year by fiscal year estimates of the House and Senate energy bill tax credit provisions. These estimates were prepared in final form by OMB based on information provided by DOE and Treasury. You requested this information at the December 7, 1977 meeting on NEP legislation. With regard to discussions at that meeting, note that a substantial amount of the tax credits (40% of the total) in the Senate bill fall between FY 78 and FY 81.

The Administration has not taken definitive positions on many of the compromises being discussed by the House/Senate conferees, although Administration officials have suggested that additional producer incentives, such as the world price for new domestic oil and a limited trust fund, may be acceptable elements of a compromise.

In return for these concessions, we should get (1) substantial reductions in Senate bill tax credits (close to those in the House bill) and (2) retain as much as possible of the House bill oil and gas use tax on industry and utilities. If you agree, we need to develop our position on specific tax credits and communicate this position to the conferees. Unless the Administration takes a leadership position on these issues, the conferees are likely to ignore the budgetary consequences of a final settlement and send you a bill with an intolerably high price tag. Although you have said that you would veto a bad bill, we should avoid that necessity if at all possible.

Jim Schlesinger, Mike Blumenthal, Frank Moore, Charlie and ourselves could develop a proposal for your review by January 10 or so. We recommend leaving open a discussion on the exact means and timing of communicating our position to the Conference. While we can play a constructive role in ensuring that the conferees are fully aware of the budget impacts of any actions which they might take, determining how this should be communicated will depend on the shape of the proposals and the approach taken by the conferees when they return. Should we proceed?

Develop proposal



Wait



JC

Attachments

Electrostatic Copy Made
for Preservation Purposes

Summary Comparison of Tax Credits in the
Senate and House Energy Bills
(\$ in millions)

Attachment

PROVISIONS	Cumulatives									
	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 78-81	FY 78-85
1. <u>Residential Tax Credit</u>										
Senate	-\$556	-\$870	-\$1,193	-\$1,490	-\$1,689	-\$1,415	-\$1,374	-\$1,471	-\$4,109	-\$10,058
House	-387	-520	-553	-589	-633	-687	-748	-710	-2,049	-4,827
Difference	-\$169	-\$350	-\$640	-\$901	-\$1,056	-\$728	-\$626	-\$761	-\$2,060	-\$5,231
2. <u>Business Tax Credits and Oil & Gas Use Tax</u>	(Note that certain business tax credits are directly related to the oil and gas use tax. Net tax revenues and tax credits are shown to provide complete information.)									
A. <u>Tax Receipts</u> (Net of Rebate)										
Senate	--	\$0	\$21	\$31	\$6	\$33	\$62	\$91	\$52	\$244
House	--	-25	398	88	164	592	813	878	461	2,908
Difference	--	+\$25	-\$377	-\$57	-\$158	-\$559	-\$751	-\$787	-\$409	-\$2,664
B. <u>Tax Credits</u>										
Senate	-\$1,106	-\$1,249	-\$1,596	-\$2,007	-\$2,414	-\$2,779	-\$3,062	-\$3,238	-\$5,958	-\$17,451
House (Also, Plus Credits Denied)	-316	-247	-211	-321	-455	-97	464	502	1,095	-681
Difference	-\$790	-\$1,002	-\$1,385	-\$1,686	-\$1,959	-\$2,682	-\$3,526	-\$3,740	-\$4,863	-\$16,770
C. <u>Total Business Provisions</u> (Net of Receipts)										
Senate	-\$1,106	-\$1,249	-\$1,575	-\$1,976	-\$2,408	-\$2,746	-\$3,000	-\$3,147	-\$5,906	-\$17,207
House	-316	-272	187	-233	-291	495	1,277	1,380	-634	2,227
Difference	-\$790	-\$977	-\$1,762	-\$1,743	-\$2,117	-\$3,241	-\$4,277	-\$4,527	-\$5,272	-\$19,434
3. <u>Incentives for Fuel Production</u>										
Senate	-\$33	-\$97	-\$178	-\$268	-\$369	-\$479	-\$587	-\$715	-\$576	-\$2,726
House	-9	-46	-58	-68	-23	-81	-102	-133	-181	-570
Difference	-\$24	-\$51	-\$120	-\$200	-\$296	-\$398	-\$485	-\$582	-\$395	-\$2,156
4. <u>Tax Credits for Individuals</u>	(Note that House bill relies on rebates of wellhead tax revenues.)									
Senate	-\$258	-\$2,668	-\$2,675	-\$2,656	-\$2,639	-\$2,369	-\$1,009	-\$1,016	-\$8,257	-\$15,290
House	--	--	--	--	--	--	--	--	--	--
Difference	-\$258	-\$2,668	-\$2,675	-\$2,656	-\$2,639	-\$2,369	-\$1,009	-\$1,016	-\$8,257	-\$15,290
TOTALS Tax Credits (without receipts)										
Senate	-\$1,953	-\$4,884	-\$5,642	-\$6,421	-\$7,111	-\$7,042	-\$6,032	-\$6,440	-\$18,900	-\$45,525
House	-712	-813	-822	-978	-1,111	-865	-386	-341	-3,325	-6,078
Difference	-\$1,241	-\$4,071	-\$4,820	-\$5,443	-\$6,000	-\$6,177	-\$5,646	-\$6,099	-\$15,575	-\$39,447

Detailed Tax Credit Provisions Comparison
Senate and House Bills

(\$ in millions)

PROVISIONS										Cumulatives	
		FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 78-81	FY 78-85
1. RESIDENTIAL TAX CREDITS	Senate	-\$556	-\$870	-\$1,193	-\$1,490	-\$1,689	-\$1,415	-\$1,374	-\$1,471	-\$4,109	-\$10,058
for conservation, solar, geo-											
thermal equipment use in	House	-387	-520	-553	-589	-633	-687	-748	-710	-2,049	-4,827
residential dwellings											
	Difference	<u>-\$169</u>	<u>-\$350</u>	<u>-\$640</u>	<u>-\$901</u>	<u>-\$1,056</u>	<u>-\$728</u>	<u>-\$626</u>	<u>-\$761</u>	<u>-\$2,060</u>	<u>-\$5,231</u>
<u>Significant items in Senate bill causing in-</u>											
<u>creased tax expenditures</u>											
1) Complete furnace/boiler retrofit		-51	-100	-210	-220	-221	-233	-245	-258	-581	-1,538
2) Wood/peat-burning residential equipment		-51	-147	-316	-553	-686	-324	-185	-194	-1,067	-2,456
3) Clock or other automatic thermostats		-2	-4	-6	-7	-9	-11	-13	-15	-19	-67
4) Heat pump		-3	-8	-13	-17	-20	-26	-31	-37	-41	-155
5) Evaporative cooling device		-32	-49	-49	-56	-63	-70	-78	-88	-186	-485
6) Refundability		-19	-25	-26	-27	-29	-30	-32	-34	-97	-222
7) Other (fluorescent lighting systems, energy usage meters, Guam, Virgin Islands, one-year extension)		-11	-17	-20	-21	-28	-34	-42	-135	-69	-308

(\$ in millions)										
PROVISIONS	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	Cumulatives FY 78-81	FY 78-85
2. Business Tax Credits										
A. Alternative Energy Property (AEP)										
The Alternative Energy Property (AEP) tax credit is directly related to the Oil and Gas Use Tax on Industry and Utilities. The tax, rebates of the tax and tax credits must be considered together in assessing fiscal impacts. Described another way, a given business that pays the tax may elect to have a 100% rebate and/or a tax credit (depending on House or Senate bill) by investing in equipment that does not use oil or gas, but that replaces equipment that uses oil or gas.										
SENATE										
Gross Tax			21	39	161	302	466	633	60	1,622
Less Rebates for AEP				-8	-155	-269	-404	-542	-8	-1,378
Less Credits Provided for AEP	-413	-559	-830	-1,157	-1,456	-1,687	-1,834	-1,887	-2,959	-9,823
Net Budget Effect	<u>-413</u>	<u>-559</u>	<u>-830</u>	<u>-1,126</u>	<u>-1,450</u>	<u>-1,654</u>	<u>-1,772</u>	<u>-1,796</u>	<u>-2,907</u>	<u>-9,579</u>
HOUSE										
Gross Tax		-25	\$1,696	\$2,774	\$3,585	\$4,582	\$7,464	\$8,384	\$4,445	\$28,460
Less Rebates for AEP			-1,298	-2,686	-3,421	-3,990	-6,651	-7,506	-3,984	-25,552
Less Credits Provided for AEP	-23	-21	-32	-50	-58	-34			-126	-218
Plus Credits Denied for AEP 1/	93	168	305	352	334	394	464	502	918	2,612
Net Budget Effect	<u>\$70</u>	<u>\$122</u>	<u>\$671</u>	<u>\$390</u>	<u>\$440</u>	<u>\$952</u>	<u>\$1,277</u>	<u>\$1,380</u>	<u>\$1,253</u>	<u>\$5,302</u> 2/
DIFFERENCE	<u>-483</u>	<u>-681</u>	<u>-1,480</u>	<u>-1,516</u>	<u>-1,890</u>	<u>-2,606</u>	<u>-3,049</u>	<u>-3,176</u>	<u>-4,160</u>	<u>-14,881</u>
Significant items in Senate bill causing increased tax expenditures										
1) Lower Net Tax After Rebates		25	-377	-57	-158	-559	-751	-787	-409	-2,664
Senate bill includes many exemptions										
2) Higher Tax Credits	-390	-538	-798	-1,107	-1,398	-1,653	-1,834	-1,887	-2,833	-9,605
• 15% ITC instead of 10% as in House										
• Extends to 1/1/86 instead of 1/1/83										
• Makes credit refundable										
• Expands eligible equipment										
3) Existing Tax Credits 10% ITC not denied	-93	-168	-305	-352	-334	-394	-464	-502	-918	-2,612
• See Footnote 1/										
TOTAL DIFFERENCE	<u>-483</u>	<u>-681</u>	<u>-1,480</u>	<u>-1,516</u>	<u>-1,890</u>	<u>-2,606</u>	<u>-3,049</u>	<u>-3,176</u>	<u>-4,160</u>	<u>-14,881</u>

1/ House bill denies existing 10% ITC and accelerated depreciation for oil and gas fired equipment and air conditioning. The House bill would also deny existing 10% ITC for alternative energy property if the firm elects to take a rebate of the oil and gas use tax.

2/ Note that under the Administration proposal, the net effect was +\$34.4 billion. The primary reason was a much more comprehensive tax.

(\$ in millions)

PROVISIONS									Cumulatives	
	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 78-81	FY 78-85
B. Specially Defined Property										
The Senate bill expands the list of eligible equipment, and extends the time frame from 1/1/83 to 1/1/86.										
Senate	-\$486	-\$464	-\$498	-\$536	-\$581	-\$626	-679	-734	-\$1,984	-\$4,604
House	<u>-224</u>	<u>-218</u>	<u>-250</u>	<u>-306</u>	<u>-350</u>	<u>-225</u>			<u>-998</u>	<u>-1,573</u>
Difference	<u><u>-\$262</u></u>	<u><u>-\$246</u></u>	<u><u>-\$248</u></u>	<u><u>-\$230</u></u>	<u><u>-\$231</u></u>	<u><u>-\$401</u></u>	<u><u>-\$679</u></u>	<u><u>-\$734</u></u>	<u><u>-\$986</u></u>	<u><u>-\$3,031</u></u>
<u>Significant items in Senate bill over House bill causing higher tax expenditures.</u>										
1) Heat exchanger, heat wheel, waste heat boiler	-78	-77	-62	-22	+3	-140	-386	-407	-239	-1,169
2) Electric motors	-11	-11	-13	-14	-15	-17	-17	-19	-49	-117
3) Fuel cells, turbines, other fuel efficient equipment										
4) Fluorescent replacement lighting systems	-4	-4	-6	-8	-11	-14	-17	-21	-22	-85
5) Silicone-controlled rectifier units	-128	-115	-122	-134	-148	-162	-180	-196	-499	-1,185
6) Heat pumps	-40	-39	-45	-52	-60	-68	-79	-91	-176	-474

(\$ in millions)

PROVISIONS									Cumulatives	
	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 78-81	FY 78-85
C. <u>Additional Business Property</u> (A 10% investment tax credit for certain property defined as energy property not presently eligible for the existing 10% ITC. The Senate bill expands the list of eligible equipment by adding shale oil, transportation, geopressurized methane, electric arc furnaces and electric motor vehicles. The Senate also extends eligibility to 1/1/86; House bill expires 1/1/83.)										
Senate	-\$207	-\$226	-\$268	-\$314	-\$377	-\$466	-\$549	-\$617	-\$889	-\$3,024
House	<u>-162</u>	<u>-176</u>	<u>-234</u>	<u>-317</u>	<u>-381</u>	<u>-232</u>	--	--	<u>-1,015</u>	<u>-1,502</u>
Difference	<u>-\$45</u>	<u>-\$50</u>	<u>-\$34</u>	<u>+\$3</u>	<u>+\$4</u>	<u>-\$234</u>	<u>-\$549</u>	<u>-\$617</u>	<u>-\$126</u>	<u>-\$1,522</u>
<u>Significant items in Senate bill causing increased tax expenditures *</u>										
1) Cogeneration property 1/	--	--	+6	+16	3	-133	-286	-325	+22	-719
2) Recycling equipment 1/	-3	-3	-3	-4	-4	-25	-50	-54	-13	-146
3) Insulation, etc. 1/	-11	-13	-9	+1	+8	-42	-132	-141	-32	-339
4) Shale oil equipment	-3	-10	-17	-24	-30	-37	-44	-57	-54	-222
5) Transportation equipment	-25	-20	-10						-54	-55
6) Geopressurized methane equipment	-4	-9	-9	-9	-10	-11	-11	-12	-31	-75
7) Electric arc furnaces	-12	-14	-18	-19	-21	-23	-26	-28	-63	-161

1/ Senate bill increases for these items are caused mainly by extension of credit to 1/1/86.

*Note that several minor items have been left out; thus items will not sum to difference between Senate and House bills.

		(\$ in millions)							Cumulatives		
PROVISIONS		FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 78-81	FY 78-85
3. <u>Incentives for Fuel Production</u>											
	Senate	-\$9	-\$46	-\$58	-\$68	-\$73	-\$81	-\$102	-\$133	-\$181	-\$570
	House	<u>-33</u>	<u>-97</u>	<u>-178</u>	<u>-268</u>	<u>-369</u>	<u>-479</u>	<u>-587</u>	<u>-715</u>	<u>-576</u>	<u>-2,726</u>
	Difference	<u>-\$22</u>	<u>-\$51</u>	<u>-\$120</u>	<u>-\$200</u>	<u>-\$296</u>	<u>-\$398</u>	<u>-\$485</u>	<u>-\$582</u>	<u>-\$395</u>	<u>-\$2,156</u>
<u>Significant items in the Senate bill causing increased tax expenditures (not in House bill) *</u>											
1) Production Credits for:											
	° Oil Shale (\$3/bbl)	-4	-19	-39	-60	-82	-104	-126	-150	-\$122	-584
	° Geopressurized methane (50¢/mcf)			-7	-14	-22	-31	-40	-52	-21	-166
	° Gas from tight rock formations (50¢/mcf)			-29	-58	-90	-124	-154	-194	-87	-649
2) Other credits for geopressurized methane. Includes 10% depletion and expensing of intangible drilling costs.		-9	-16	-18	-21	-25	-28	-31	-37	-64	-185
3) Industrial Development Bonds for New Sources											
	° Coal gasification/liquefaction				-2	-7	-17	-27	-39	-2	-92
	° Bioconversion	-1	-3	-7	-12	-18	-25	-34	-45	-23	-145
	° Local furnishing of electricity	-2	-10	-20	-33	-44	-55	-63	-68	-65	-295

* Note that several minor items have been left out; thus items will not sum to difference between Senate and House bills.

PROVISIONS	(\$ in millions)								Cumulatives	
	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85	FY 78-81	FY 78-85
4. <u>Tax Credits for Individuals</u>										
Senate	-\$258	-\$2,668	-\$2,675	-\$2,656	-\$2,639	-\$2,369	-\$1,009	-\$1,016	-\$8,257	-\$15,290
House	(No comparable tax credits; House bill relies on: 1) a less costly home heating rebate of the wellhead tax (\$5,607 billion for FY 78-85), and 2) a rebate of the 1978 wellhead tax revenues. Implicitly a rebate beyond 1978 is assumed by House members but the specifics of how it will be rebated will not be decided until next year)									
Difference	<u>-\$258</u>	<u>-\$2,668</u>	<u>-\$2,675</u>	<u>-\$2,656</u>	<u>-\$2,639</u>	<u>-\$2,369</u>	<u>-\$1,009</u>	<u>-\$1,016</u>	<u>-\$8,257</u>	<u>-\$15,290</u>
<u>Significant items in Senate bill causing increased tax expenditures</u>										
1) 25% credit for home heating oil and propane	-252	-1,679	-1,683	-1,660	-1,640	-1,365	--	--	-5,274	-8,279
2) Tax credit for increased home-heating due to import price increases	-6	-37	-40	-44	-46	-50	-52	-57	-127	-332
3) \$75 tax credit for any taxpayer who maintains a household which includes some one aged 65 or over, phased out between adjusted gross incomes of \$7,500 and \$12,000		-952	-952	-952	-953	-954	-957	-959	-2,856	-6,679

THE WHITE HOUSE
WASHINGTON
December 28, 1977

Charles Schultze

The attached was returned in the President's outbox today and is forwarded to you for appropriate handling. Please distribute among the staff as appropriate.

Rick Hutcheson

RE: PROGRESS TOWARD BUDGET BALANCE
AND WHAT WE SAY ABOUT IT

ADMINISTRATIVELY CONFIDENTIAL

THE WHITE HOUSE
WASHINGTON

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

Charlie - pls distribute among staff as appropriate

ACTION	FYI
<input type="checkbox"/>	MONDALE
<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	MOORE
<input type="checkbox"/>	POWELL
<input type="checkbox"/>	WATSON
<input checked="" type="checkbox"/>	McINTYRE
<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	GAMMILL

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN

9:00 AM

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

December 27, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Charlie Schultze ^{CLS}

SUBJECT: Progress toward budget balance and what we say about it

The attached memorandum on the 1981 balanced budget reflects the unanimous views of your economic advisers -- Blumenthal, Eizenstat, Schultze, and McIntyre. It reflects extensive discussion of the problem among us. Dick Cooper has not seen the memo itself, but was a participant in the discussions and fully agrees with the conclusions.

(I have kept this cover note and the memo separate for security reasons).

Attachment

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Charles -
I understand &
reluctantly agree -
I suggest we also
emphasize correlation
& trade off between
tax reduction &
balancing budget
JC

Balancing the Budget in 1981

The Administration's position on balancing the budget in fiscal 1981, while also achieving high employment, is becoming increasingly difficult to defend and rationalize. Public confidence in the realism and consistency of the Administration's economic program would be strengthened by deferring the commitment to budget balance beyond 1981, while retaining it as an ultimate objective. This memorandum:

- (i) sets forth the reasons why achieving a balanced budget in 1981 appears highly unlikely; and
- (ii) suggests how we might deal with that fact, while still preserving both the reality and the image of fiscal prudence and budgetary discipline.

Background

Presentations to you on the longer-term outlook for the economy and the budget have stressed the two-way relation between economic performance and budgetary results. Balancing the budget in 1981 is possible -- if we are prepared to accept economic results that are far short of our stated goals. Achieving a high-employment economy in 1981 is also possible, if we are prepared to undertake additional fiscal actions that will result in a 1981 budget deficit. The question at issue is whether the two goals can be achieved simultaneously in that year.

The Problem

We have always recognized that keeping the economy on the track to high-employment levels by 1981, and eliminating the deficit by that time, would be very difficult. However, several economic developments during 1977 have substantially reduced the chances of achieving high employment and a balanced budget in 1981.

- o Our energy imports have grown more rapidly than forecast, thereby adding an important "drag" to the economy.
- o The growth of U.S. exports has been slow because economic activity abroad has been more sluggish than had been anticipated at the beginning of the year. Slack in the economies of our major trading

*we should
emphasize*

partners is likely to be with us for some time.

- o The aggregate surplus in the budgets of state and local governments has increased substantially more than had been expected, despite continued fiscal distress in some major cities. In the third quarter state and local governments in total had an annual rate of surplus of \$33 billion -- \$12 billion higher than a year earlier. We do not look for the surpluses to continue at this level, but they will remain high, in part because a large fraction represents growing accumulations in state and local employee pension funds.

The combination of state and local surpluses and current account imbalances in our foreign trade will, on conservative estimates, amount to \$40 billion in 1981. That \$40 billion will be a drag on the economy which has to be counteracted either by an extraordinarily good performance of private consumption and investment, or by continued Federal stimulus, principally via additional tax cuts in 1980 or 1981.

While we cannot forecast with precision the course of the economy between now and 1981, we can estimate the required growth of private investment needed to achieve a high-employment economy with a balanced budget in 1981. Given the developments with respect to state and local surpluses and the foreign trade sector outlined above, and assuming that the personal savings rate does not rise above 6 percent:

- o Growth of private investment (adjusted for inflation) at or slightly above a 10 percent annual rate between 1977 and 1981 would be needed to reduce the unemployment rate to 5 percent, and simultaneously achieve a balanced budget in 1981. The chances of sustaining such a high growth rate are very slim.
- o If private investment grows at an 8 percent annual rate -- a healthy rate, but one that is more in line with reasonable expectations -- economic growth would slow unless there were additional tax cuts a year or two from now. By not making those cuts, we could achieve a balanced budget in 1981,

but at an unemployment rate of around 5-3/4 percent.
Unemployment would be rising and we would, in all likelihood, have another budget deficit in 1982.

The difference between a 5 percent unemployment rate and a 5-3/4 percent rate translates into roughly a million lost jobs (taking account of the discouraged workers who would reenter the labor force in a strongly growing economy).

Quite apart from detailed economic calculations, there is the sheer problem of arithmetic. The budget deficits for the four fiscal years 1976 through 1979 will follow the following pattern:

FY:	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>
	-66	-45	-63	-64

After this history, it will be difficult to convince a skeptical public that the budget deficit can be reduced by \$60 billion in two years without slowing down the recovery.

In our judgment, an economic performance that would produce both a balanced budget and a high-employment economy in 1981 (5 percent unemployment) is exceedingly unlikely. The difficulty is not that outlays cannot be contained, but rather than collecting taxes sufficient to balance the budget by 1981 would damage the economy.

Published Projections in the 1979 Budget Document.

In the January Budget Document, we will publish a forecast of economic performance in 1978 and 1979, and the budgetary results implied by the forecast. We will also publish projections of the economy and the budget for the years 1980 to 1983. The economic projections will assume that the economy grows along a high-employment track, while the budgetary figures assume no further tax reductions after the proposed \$25 billion cut next year. The budgetary outcome that corresponds to those assumptions will show the budget moving into a small surplus in fiscal 1981. A rough approximation of how the numbers may come out is shown in Table 1.

The issue is not what numbers are published. There is no need for us to show budget numbers that incorporate further tax reductions or other fiscal stimulus after next year, since those decisions have not been made. But what we say about the numbers is a major issue. If we continue to maintain

Table 1

Economic Assumptions for the 1979 Budget
(Calendar years, dollar amounts in billions)

	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
Real GNP growth (fourth quarter to fourth quarter)	4.7	4.7	5.0	5.0	4.5	4.0
Unemployment rate (%)						
Annual average	6.6	6.2	5.6	5.0	4.5	4.1
Fourth quarter	6.4	6.0	5.4	4.9	4.4	4.0

Budget Balance
(Fiscal years, billions of dollars)

<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
-63	-64	-35	15	49	78

that a balanced budget and high-employment can both be achieved in 1981, we are likely to have major credibility problems.

- o The Congressional Budget Office has published analyses which conclude that simultaneous achievement of these goals is virtually impossible, and their work has received widespread attention. Other reputable economic research organizations, like Data Resources, Inc. (DRI), have come to the same conclusion.
- o Your economic advisers will almost certainly be subject to intense questioning on this issue in Congressional testimony in late January and early February. We can, of course, indicate the kind of private economic performance which would make it possible to balance the budget and simultaneously achieve satisfactory unemployment levels. But we would lose credibility by maintaining that such a performance is likely.
- o Loss of credibility would occur not only among professional economists but also among knowledgeable businessmen and many members of the Congress. It is very important that we be seen by these groups to be planning our budgetary and economic policies consistently and realistically.

Recommended Administration Position

We believe the time has come to acknowledge candidly that a balanced budget in 1981 is unlikely to be achieved, if we are to reach our economic objectives. We can and should still maintain budget balance as a goal, but at a later date, as economic circumstances permit. The Administration position on the issue would stress that:

1. We put top priority on three goals: lowering unemployment, fighting inflation, and controlling Federal expenditures.
2. We plan to reduce the share of Federal spending in GNP. Federal taxes can then be used as an economic "regulator" or "governor" which -- while holding Federal spending to strict accountability -- would allow for the appropriate amount of fiscal stimulus in order to meet our economic goals.

3. We will maintain strict discipline over expenditures. But reaching an actual balance in the Federal budget by 1981 would require that we forego any further tax reductions after the one proposed this year. It is unlikely that stable economic recovery and gradual reductions in unemployment could be maintained for the next four years without a tax cut. Economic conditions at home and abroad make it more difficult for the United States to have both a balanced budget and high employment by 1981.
4. We believe that prudent fiscal policy requires a substantial decline in the Federal budget deficit after 1979, and progress towards balance as we approach high employment. But -- actual balance may have to be deferred beyond 1981.

Advantages and Disadvantages

Following the course of action we recommend will have the following advantages:

- o The Administration's credibility about the reality of its economic program will be substantially strengthened.
- o Confidence in the prospects for continued recovery will grow.
- o Some of your principal constituency groups -- labor, blacks, and liberal Democrats generally -- will be pleased to see the Administration putting greater priority on economic goals.

There are some disadvantages to be considered:

- o Extreme conservatives will criticize any backing away from the commitment to a balanced budget in 1981. (People generally want you to work towards a balanced budget; but they are not concerned about achieving it in a given year.)
- o Some finance ministers and central bankers abroad are likely to be critical.

- o There might be some adverse reaction in both the foreign exchange markets and perhaps the stock market. (We believe it would be short-lived, and replaced by a growing sense of confidence in our economic realism, particularly if we continue to stress our desire to eventually reach that goal.)

Format for Developing a New Administration Position

As you know, we are planning to put out this year a separate Economic Report of the President (in addition to the usual Annual Report of the Council of Economic Advisers to the President) that lays out in detail the Administration's long-run economic strategy. That statement would be a convenient vehicle for setting forth and explaining the Administration's position on this issue. A similar statement would also appear in the Budget Message.

MEMORANDUM

THE PRESIDENT HAS SEEN.

THE WHITE HOUSE
WASHINGTON

J

27 December 1977

TO: THE PRESIDENT
FROM: RICK HUTCHESON *R.H.*
SUBJECT: Memos Not Submitted

1. SAM BROWN MEMO on ACTION's FY '79 budget. The letter (1) acknowledges agreement to the decisions on the budget; (2) alerts the President to the potential political problems ACTION and the Administration may face in defending reductions to the Retired Senior Volunteer Program (RSVP), phase out of the University Year for ACTION (UYA), and the current service proposal for the Senior Companions; and (3) solicits the President's support for "achieving a better Peace Corps preparatory to a bigger Peace Corps."
2. SEN. HUBERT HUMPHREY sent you a letter and packet of information on a possible new energy source, "Humatec." Frank Moore will acknowledge. The documents will be referred to DoE for analysis. *Then to me*

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for Preservation Purposes

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

28 December 1977

TO:

SECRETARY SCHLESINGER

FROM:

RICK HUTCHESON 

SUBJECT:

Attached Material from Senator
Humphrey on a Possible New Energy Source

The President has asked that DoE analyze the attached material from Senator Humphrey and then report to him. This request will be included in my "tickler file" until completed.

cc: Frank Moore
Bill Simon

HUBERT H. HUMPHREY
MINNESOTA

United States Senate

WASHINGTON, D.C. 20510

December 21, 1977

SU1
EN02

ack fm/
To P
CONGRESSIONAL
LIAISON

DEC 23 1977

The President
The White House
1600 Pennsylvania Avenue
Washington, D. C.

Dear Mr. President:

You may recall my conversation with you at Camp David concerning a possible new source of energy and fuel. Rather than trying to describe the whole process and what has been done about it, I am sharing with you the papers presented to me by our energy specialist on the Joint Economic Committee. I do hope you will read it. If the preliminary report proves to be solid, then a real breakthrough has been made.

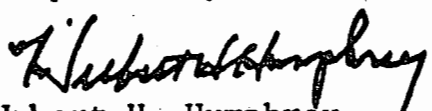
You will note that contact has been made with Dr. Schlesinger and DOE is already involved, but apparently there is a need of a pilot plan which will call for some Federal assistance.

The attached documents are self-explanatory, and I truly believe they merit your attention.

A final note -- thank you, thank you, Mr. President, for that wonderful weekend at Camp David. You have my full and complete confidence and my devotion to your success as our President. May this Christmas Season and the coming New Year start to bring to fruition the many good things you have in store for "We The People".

With admiration and friendship.

Respectfully,


Hubert H. Humphrey



OFFICE OF
THE DIRECTOR

ACTION

WASHINGTON, D.C. 20525

December 20, 1977

The President
The White House

Dear Mr. President:

We accept the current agreements with regard to ACTION's FY '79 budget. However, I would like to make certain you are aware of the public impact of the reductions of three programs.

First, the reduction in the Retired Senior Volunteer Program (RSVP) raises a serious consideration. Unlike some government reductions which will mean a lower level of benefits or potential benefits for all participants, the \$4 million reduction in RSVP will result in the elimination of programs for approximately 40,000 older American volunteers. Although the direction of this program has in the past appeared weak and diffused, it is a popular and potentially highly beneficial program of citizen involvement. Because of this latter point, it is important to assure you that RSVP will survive and can have new direction at the level provided, but I wanted you to realize that because of its popularity and the fact that it is already one of the lowest cost programs receiving Federal support, there will be many who will find the argument of a qualitative improvement difficult to understand.

Secondly, the Senior Companion Program, another of our Older American Volunteer Programs, may in the future merit reconsideration. In concept and design it is a program of significant social value for both the participants and beneficiaries. Again the potential cost to expand this program is small.

Thirdly, the University Year in ACTION (UYA) program, which we have agreed to terminate, has a very strong following among liberals as well as conservatives in the education community in addition to members of Congress, all of whom believe that it provides a unique opportunity for students to expand their horizons beyond the classroom and into the community, bringing the resources of the university into the low-income community. It was, in fact, UYA volunteers who were living at the site you visited in the South Bronx, where they were providing design support to the community group attempting to rebuild that neighborhood. I believe this program provides substantial benefits at small costs and expect that the Congress will have a strong interest in the continuation of this program.

On the other hand, I believe the programs of our Agency can take on new life and new quality as a result of the FY '79 budget decisions which have been reached. The increase in the size of VISTA affords a real opportunity to reorient, reestablish, and reinvigorate this program which gives reality to the best spirit of the American people.

The decision to achieve a better Peace Corps, preparatory to a bigger Peace Corps, will need your personal assistance in interpretation to the American people. Despite its ups and downs, no program has enjoyed the level of public esteem which Peace Corps has sustained. However, many will interpret your support for Peace Corps solely on the basis of numbers of volunteers. You will, therefore, have to assist us in making the argument that your interest is first in quality, in preparation for later expansion.

Clearly, there are many high priority items demanding your attention this week. The constraints of your budget objectives are severe, and the dollars involved here are small in comparison to the other major decisions which are before you. I did, however, want to inform you of the impact of these cuts, and the difficult consequences of the decisions for reduction.

Sincerely,


Sam Brown

THE WHITE HOUSE

WASHINGTON

Date: December 20, 1977

MEMORANDUM

FOR ACTION:
Jim McIntyre

FOR INFORMATION:
Stu Eizenstat

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Sam Brown memo dated 12/20/77 re ACTION's 79 Budget

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00 Noon

DAY: Thursday

DATE: December 22, 1977

ACTION REQUESTED:

Other: ☒ Your comments

STAFF RESPONSE:

☐ I concur.

☐ No comment.

Please note other comments below:

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

THE WHITE HOUSE
WASHINGTON

/	FOR STAFFING
	FOR INFORMATION
	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
/		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
/		LANCE <i>JM</i>
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	KING

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE WHITE HOUSE
WASHINGTON

for
Summary

Date: December 20, 1977

MEMORANDUM

FOR ACTION:
Jim McIntyre

FOR INFORMATION:
Stu Eizenstat

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Sam Brown memo dated 12/20/77 re ACTION's 79 Budget

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TIME: 12:00 Noon

DAY: Thursday

DATE: December 22, 1977

ACTION REQUESTED:

Other: ☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur. ☐ No comment.
Please note other comments below.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone, 7052)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 23, 1977

MEMORANDUM FOR: RICK HUTCHESON
THROUGH: W. Bowman ~~letter~~
FROM: Sue Woolsey
SUBJECT: ACTION's letter to the President on its
FY 1979 Budget

The purpose of Sam Brown's letter to the President appears to be three-fold. First, to acknowledge agreement to the decisions on ACTION's 1979 budget. Second, to alert the President to the potential political problems ACTION and the Administration may face in defending reductions to the Retired Senior Volunteer Program (RSVP), phase out of University Year for ACTION (UYA), and the current service proposal for the Senior Companions. Third, to solicit the President's support for the Peace Corps.

With regard to the second issue, OMB recognizes the popularity of these programs. However, ACTION should be able to defend the RSVP reduction on the basis that many of these projects duplicate services already provided by the private sector and which should be provided anyway. ACTION can also cite the severe criticism and recommendations of its Citizen's Review panel when it discusses RSVP on the hill. The principal point OMB has stressed is that although there will be a slight reduction in Federal expenditures and some reduction in benefits received, the actual number of volunteers will probably not be reduced. The Senior Companions program was not reduced, as ACTION implies, but held at its current level. Increased funding for this program was not recommended since the agency could not define how its volunteers could obtain the expertise to become advocates for their clients, a shift in program direction which could jeopardize a popular program. ACTION can also stress its efforts to encourage States to adopt similar programs as justification for a current level budget. The University Year for ACTION was not a high priority program (minimum level ranked 23 of 29), and was criticized by ACTION's Citizen Review for not providing opportunities for minority youth. ACTION can defend the phase out of UYA on the grounds that since most UYA programs are apparently not of sufficient interest to colleges and universities that the institutions incorporate them in their curriculum, Federal resources should not continue to go toward UYA support.

With regard to the Peace Corps, we have agreed with ACTION to increase quality through training. However, we have made no commitment to expansion since plans to accomplish Peace Corps' new program directions are still in the formation stages. We would caution the President against committing himself to an expansion of the Peace Corps without concrete plans from ACTION.

THE PRESIDENT HAS SEEN.

MAJOR DECISION ELEMENTS

1. Size of tax package

A. \$29-\$30 billion; (FY 1979 deficit \$64 to \$66)

20.0	individual
6.0-6.9	corporate
1.5	telephone excise
0.8	airline ticket tax from 8% to 2%
0.8	reduce federal U.I. tax

\$240 credit
12 to 68 percent tax rates
no deduction for lesser earning spouses

B. \$23.5 - \$24.5 billion; (FY 1979 deficit \$60 to \$62)

14.5	individual
6.0-6.9	corporate
1.5	telephone excise
0.8	airline ticket tax
0.8	federal U.I. tax

14.5
.9
.8

16.2

\$250 credit
12 to 68 percent tax rates, but lower
reductions in the \$16,000 to \$36,000
income range than the large package.
second earner deduction of 10%/\$3000

2. Business tax reductions

A. Treasury favors:

- (i) corporate rate cut: 3% 1978; 1979
4% 1980 and thereafter
- (ii) liberalize investment
tax credit, but keep it
at 10%

CY 1979 cost \$6 billion

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B. CEA favors:

- (i) corporate rate cut: 2% 1978, 1979
3% 1980 and thereafter
- (ii) liberalize ITC
- (iii) raise ITC to 12%

CY 1979 cost \$7 billion

3. Major reform elements still at issue (all revenue estimates are full year effects at 1976 incomes)

- A. Employer group paid legal insurance + 40 million
- B. Disallow business entertainment deductions for theatre and sporting tickets fully or by 50 percent ?
- C. Deferral at a 45% corporate tax rate +375 million
- D. Raise minimum tax to 20%
 - (i) include capital gains
 - (ii) exclude capital gains ?
 - (iii) do not propose

4. Timing of tax reduction

July 1 vs. October 1 1978

5. Anti-inflation program

- o The major decision needed immediately is whether or not to project lower inflation rates on the assumption that the program is successful:

	<u>1978</u>	<u>1979</u>	<u>1980</u>
inflation rate:			
as now forecast	6.3	6.4	6.7
with success	5.9	5.6	5.3

- o OMB needs our economic projections very shortly, to make the budget consistent. Lower inflation rates add to the deficit, since revenues are affected by more than expenditures. Using the lower rates would add the following to the deficit.

FY	<u>1979</u>	<u>1980</u>	<u>1981</u>
	\$ 1	\$ 4	\$ 3 billion

THE PACKAGE 2 TAX CUT AND PROJECTED DEFICIT IN PERSPECTIVE

1. Relative to the size of the economy, the proposed Package 2 tax cut is approximately 60 percent of the size of the 1965 tax cuts.

	<u>Tax Cut</u>	<u>GNP</u>	<u>Cut % GNP</u>
1965	\$15.2 b.	\$688 b.	2.2%
1979	\$30 b.	\$2342 b.	1.3%

Although the proposed cut is nearly twice as big as the earlier cut, the economy has nearly quadrupled in size.

2. The state-local government sector and the foreign sector are currently exerting a tremendous drag on the economy. In 1965, these sectors provided net stimulus.

	<u>State-local government stimulus</u>	<u>Foreign trade stimulus</u>	<u>Total</u>	<u>Total % GNP</u>
1965	0	\$4.3 b.	\$4.3 b.	0.6%
1979	-\$21.5 b.	-\$25.0 b.	-\$46.5 b.	-2.1%

3. The economy is in the process of recovering from a far deeper recession than in the mid-sixties. In 1964, the unemployment rate was at the level which it is hoped the current stimulus will achieve in 1981.

	<u>1964</u>	<u>1965</u>	<u>1978</u>	<u>1979</u>
Unemployment rate	5.2%	4.5%	6.6%	6.1%


MEMORANDUM

THE WHITE HOUSE

WASHINGTON

28 December 1977

TO: STU EIZENSTAT

FROM: RICK HUTCHESON 

SUBJECT: Blumenthal Memo dated 12/22 re:
Refundable Tax Credits

Rather than going to the President, Secretary Blumenthal's memo is returned to you for inclusion in the energy Conference options memo you are working on with OMB, CEA, Frank Moore, Treasury and DOE, to be completed by the time the President returns from abroad. The President concurs.

cc: Jim McIntyre
Frank Moore
Charlie Schultze

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

ok
J

28 DECEMBER 1977

TO: THE PRESIDENT
FROM: RICK HUTCHESON *R.H.*
SUBJECT: Memos Not Submitted

1. SECRETARY BLUMENTHAL sent you a memo making a number of arguments against any Administration support for refundable tax credits in the energy legislation. Stu Eizenstat, Jim McIntyre, and Frank Moore all suggest that this issue be considered in the context of the entire energy tax package coming out of the Conference. DPS, OMB, DOE, Treasury, CEA and others will be working on a full set of options for resolving the remaining issues in the Conference, to be ready on your return from abroad.

With your permission, I'll refer Blumenthal's memo back to that group for inclusion in the overall package.

Electrostatic Copy Made
for Preservation Purposes

ORIGINAL WASHINGTON

Shu - 4pm

Date: December 23, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Frank Moore *attached*
Jim McIntyre *attached*
Charlie Schultze *concur long phone*
Secretary Schlesinger *attached*

FOR INFORMATION:

Vice President
Jack Watson
Zbig Brzezinski

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Blumenthal memo date 12/22 re Refundable Tax Credits in the Energy Bills

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00 noon

DAY: Tuesday

DATE: December 27

ACTION REQUESTED:

☒ Your comments

Other:

STAFF RESPONSE:

☐ I concur.☐ No comment.*Please note other comments below.*PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately. (Telephone: 7052)



THE SECRETARY OF THE TREASURY
WASHINGTON

December 22, 1977

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Refundable Tax Credits in the Energy Bills

At our meeting the other day on the energy bills, Jim Schlesinger raised the possibility of accepting "refundable" tax credits in order to promote energy savings. "Refundability" of a tax credit means that a claimant receives a cash payment from the Internal Revenue Service for the amount of the credit in excess of his tax liability. This is true even if the claimant is wholly tax exempt, such as a municipally owned utility in the case of an energy credit. I indicated at that time that the issue of refundability was a very serious one for the Treasury, and that further discussion of this issue was essential.

The analysis that follows attempts to put the issue of refundability in proper perspective and to analyze its consequences.

Background

As the conference on the energy bill has proceeded, it has become increasingly likely that a strong user tax -- and the energy savings it represents -- will not be adopted. In this context, there has been some indication that Senator Long wants to take back from the conference at least one refundable tax credit, however circumscribed. Some discussion has centered about a refundable credit limited to utilities for coal conversion investments. DOE has suggested that a 15 percent refundable coal conversion credit would produce energy savings comparable to those that a strong user tax would produce and hence should be accepted.

The prospect of making tax credits, especially the investment tax credit, refundable is a watershed tax policy issue. The issue has been raised persistently since the adoption of the investment tax credit in 1962.

Only one significant tax credit -- the earned income credit adopted in 1975 -- has ever been made refundable.

The earned income credit is available only to the lowest income levels, and is not generally considered a precedent for making other tax credits refundable because it merely acts as a refund of actual taxes paid -- albeit, Social Security taxes -- by a low income earner.

Issues Relating to Refundable Tax Credits

Refundable tax credits raise important issues not only for our tax system, but also for the administration of government.

- ° There is no realistic possibility of confining refundability to energy tax credits. That is why Senator Long is willing to accept a narrowly circumscribed refundable credit: the foot-in-the-door consequence is sufficient. Senator Long has been a leading advocate of refundable tax credits for many years. His target is the investment tax credit in the context of our tax reform proposals next year, and on this issue he is joined by Senator Kennedy. It may be expected that refundability will be advocated as essential for educational development, economic stimulus, and so on. Therefore, if the Administration accepts any refundability provision in the energy bill, the Administration must be prepared to accept refundability elsewhere.
- ° Refundability poses sensitive jurisdictional problems for the Congress. Refundability reduces budget control by eliminating the appropriations and authorization process that accompanies ordinary Federal programs. Refundable credits are viewed as a means by which the tax-writing committees may independently fund programs without approval by substantive committees. As a result, the Congressional budget and appropriations committees have serious misgivings about refundable tax credits.
- ° Refundability could result in placing the administration of a wide variety of programs in the IRS rather than the agency having primary expertise.
- ° Refundability will increase the number of programs that will persist year after year without substantial review or budgetary control by OMB and the Congress.

- ° Even if it were possible to accept a refundable tax credit under some circumstances, it would be necessary to include an adjustment in the taxpayer's basis so that he would only be able to depreciate the portion of the investment which he pays for, and not the Government-funded portion. There is a question whether the proper basis adjustment could be made a part of any compromise at this time.
- ° Acceptance of refundability requires full consideration of the cost. This is discussed below.
- ° The impetus for accepting refundability at this time is predicated on substantial energy savings. Our analysis indicates that there is substantial uncertainty as to whether a refundable tax credit on coal conversion equipment will lead to great energy savings.

Cost of Refundable Tax Credits

We believe that refundability cannot be accepted without acknowledging the enormous budgetary impact of refundable tax credits.

- ° Refundability of the current investment tax credit -- as proposed by Senators Long and Kennedy -- would cost \$13.9 billion cumulative from 1977 to 1982 and even more if the credit is liberalized in the tax program.
- ° Refundability of the additional investment credit under our tax reform proposal (extending the credit to industrial and utility structures and allowing the credit to offset 90 percent of tax liability) would cost another \$0.6 billion cumulative through 1982.
- ° A refundable investment credit with a basis adjustment would take away revenue from successful businesses (unless the percentage rate were sharply increased) and subsidize many inefficient businesses. It would put many taxpayers with large income in a position paying no tax, and even receiving cash subsidies from the government.
- ° The investment tax credit would have to be increased to 14 percent to compensate those businesses adversely affected by the basis adjustment. This, in itself, would cost another \$7.5 billion per year.

- ° A 15 percent refundable coal conversion credit without basis adjustment in the energy bill through fiscal 1985 would cost \$3.1 billion more than the 10 percent nonrefundable credit which we prefer, and \$1.5 billion more than a 15 percent nonrefundable credit which we could live with.
- ° If the business and individual energy tax credits were made refundable, the additional cost of refundability between 1978 and 1985 would be at least \$9 billion.

Energy Savings

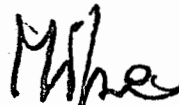
The issue of making tax credits refundable has been raised at this time principally because it is believed that substantial energy savings could be derived from a narrowly-drawn refundable energy credit. DOE reports that an additional 300,000 to 450,000 barrels per day oil imports could be saved if a 15 percent additional investment tax credit were adopted for conversion from oil or gas to coal in place of a 10 percent additional tax credit. According to DOE, the import savings would be:

- ° 300,000 barrels per day if the 15 percent credit were not refundable, or
- ° 450,000 barrels per day if the 15 percent credit were refundable.

Our staff has discussed with DOE the imprecision of the energy saving estimates on going from a 10 percent to a 15 percent credit. But, even accepting DOE estimates, the 150,000 barrels per day saving from refundability does not seem worth the problems assumed by acquiescing in refundability.

Recommendation

In view of the foregoing, I strongly urge you to oppose refundability in all the energy tax credits.



W. Michael Blumenthal

Date: December 23, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Frank Moore
 Jim McIntyre
 Charlie Schultze
 Secretary Schlesinger

FOR INFORMATION:

Vice President
 Jack Watson
 Zbig Brzezinski

XC: HC
 SL
 FMI

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Blumenthal memo date 12/22 re Refundable Tax Credits
 in the Energy Bills

YOUR RESPONSE MUST BE DELIVERED
 TO THE STAFF SECRETARY BY:

TIME: 12:00 noon

DAY: Tuesday

DATE: December 27

ACTION REQUESTED:

☒ Your comments

Other: _____

STAFF RESPONSE:

☐ I concur☐ No comment

Please note other comments below

CONGRESSIONAL LIAISON:

This issue must be looked at in the context of the entire energy tax package that comes out of the Conference, not simply as one of refundability. For now it's OK to take a hard line, but be prepared to compromise.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 27 1977

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM MCINTYRE *W. B. Smith (f)*

SUBJECT:

Mike Blumenthal's memo on Refundable Tax Credits in the Energy Bills

I strongly agree with Mike's recommendation in opposition to the tax refundable provisions of the Senate bill. In addition to the arguments raised in the Treasury memo, I'd again like to point out that the Senate bill will cost \$67 billion over FY 78-85. Refundable tax credits are just one of the contributors to this major adverse budget impact. For this reason, I believe we not only need to develop a position on refundable tax credits, but as well on the other remaining major provisions of the bill. In my judgment, dealing with items such as these on a piecemeal basis could well lead to an overall solution that is more costly than we should permit. I therefore urge that we develop a comprehensive set of positions on the remaining provisions of the energy bill not yet agreed to by the conferees.

Agree

☐

Disagree

☐

See me

☐

THE WHITE HOUSE

WASHINGTON

December 27, 1977

MEMORANDUM FOR THE PRESIDENT

FROM

STU EIZENSTAT
KITTY SCHIRMER



SUBJECT

BLUMENTHAL MEMO DATED 12/22 ON REFUNDABLE
TAX CREDITS IN THE ENERGY BILL

The Blumenthal memorandum makes a number of strong arguments, both substantive and precedential, against any Administration support for refundable tax credits in the energy legislation. He is absolutely correct about Senator Long's interest in obtaining a "foot-in-the-door" precedent for refundability. He is also correct in stating that refundability is a major tax policy issue with possible consequences including (a) very large budgetary costs if extended to the investment tax credit and (b) the Federal government actually having to make cash payments to high income individuals and firms.

The Senate Finance Committee energy bill contains 7 refundable tax credits. It is clear that Long insisted on taking a number of these credits to Conference (some of which have relatively minor energy savings) in hopes of bringing at least one of them back from Conference. While we share some of the concerns which Blumenthal raises and would certainly prefer to avoid refundable credits, one refundable tax credit may be the price of getting energy legislation out of Conference. In addition, Schlesinger's staff has indicated that the oil savings from a compromise on oil and gas user tax will be substantially diminished unless refundability is part of the compromise. As you remember, the oil and gas user tax counted for a substantial portion of the oil savings achievable under your proposal and under the House bill.

While we do not believe that it would be appropriate for the Administration to support any of the refundable tax credits at this point, neither do we believe that you can afford to close the door completely on refundability, especially if this is part of the ultimate price of a bill.

Over the next ten days we, OMB, Schlesinger's staff, Treasury, CEA and others will be working on a full set of options for resolution of the remaining issues in Conference. This will be ready for your review when you return from your trip. The refundability issue will come up again in that context, and we would urge that you not make a final or public decision on this issue until then.

MS Hershey

Date: December 23, 1977

MEMORANDUM

FOR ACTION:

Stu Eizenstat
Frank Moore
Jim McIntyre
Charlie Schultze
Secretary Schlesinger

FOR INFORMATION:

Vice President
Jack Watson
Zbig Brzezinski

FROM: Rick Hutcheson, Staff Secretary

SUBJECT: Blumenthal memo date 12/22 re Refundable Tax Credits
in the Energy Bills

YOUR RESPONSE MUST BE DELIVERED
TO THE STAFF SECRETARY BY:

TIME: 12:00 noon

DAY: Tuesday

DATE: December 27

ACTION REQUESTED:

☒ Your comments

Other: _____

STAFF RESPONSE:

☐ I concur.☐ No comment.*Please note other comments below:***PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.**

If you have any questions or if you anticipate a delay in submitting the required




December 27, 1977

Department of Energy
Washington, D.C. 20585

MEMORANDUM FOR:

THE PRESIDENT

FROM:

JIM SCHLESINGER 

SUBJECT: Refundable Tax Credits in the Energy Bill

Mike Blumenthal argues that refundable tax credits would create a bad precedent for tax policy. Although it is difficult for me to dispute his observations as to the precedent that would be created, I think we should give very serious consideration to a refundable tax credit for utility conversions to coal and nuclear energy. If the Administration did support refundable tax credits for utility conversions, the point could be made that this credit represents an unusual situation that should not act as a precedent for refundable tax credits in other areas.

As Mike Blumenthal's memo indicates, the oil savings for a refundable tax credit are about 150,000 barrels a day greater than without the refundability feature. The revenue loss between now and 1985 would only be \$1.3 billion. Hence, on the basis of oil savings, the refundable tax credit would make sense, particularly in light of the fairly weak oil and gas user tax which we expect to be enacted for utilities.

If you decide not to support a refundable tax credit because of the precedent it would create, I recommend the following:

- ° that the Administration support the 15 percent investment tax credit level for utilities rather than 10 percent; and
- ° that we look for further tax credits to boost savings in the utility sector, such as accelerated amortization.

MEMORANDUM

8499

NATIONAL SECURITY COUNCIL

December 27, 1977

MEMORANDUM FOR: RICK HUTCHESON
FROM: TIM DEAL *TD*
SUBJECT: Refundable Tax Credits in the Energy Bill

From a foreign policy standpoint, the NSC staff strongly supports measures that will reduce our dependence on imported oil. Refundable tax credits would undoubtedly result in some energy savings. But, we find Mike Blumenthal's arguments about the adverse impact of such credits on the administration of US tax policy convincing, and, therefore, concur with his recommendation that the Administration oppose any refundability in the energy bill.

file
rec'd too late

THE WHITE HOUSE
WASHINGTON

December 28, 1977

Jim McIntyre

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: 1979 FUNDING LEVEL APPEAL OF
THE NATIONAL CANCER INSTITUTE

THE WHITE HOUSE
WASHINGTON

<input type="checkbox"/>	FOR STAFFING
<input type="checkbox"/>	FOR INFORMATION
<input checked="" type="checkbox"/>	FROM PRESIDENT'S OUTBOX
<input type="checkbox"/>	LOG IN/TO PRESIDENT TODAY
<input type="checkbox"/>	IMMEDIATE TURNAROUND

ACTION	FYI	
<input type="checkbox"/>	<input type="checkbox"/>	MONDALE
<input type="checkbox"/>	<input type="checkbox"/>	COSTANZA
<input type="checkbox"/>	<input type="checkbox"/>	EIZENSTAT
<input type="checkbox"/>	<input type="checkbox"/>	JORDAN
<input type="checkbox"/>	<input type="checkbox"/>	LIPSHUTZ
<input type="checkbox"/>	<input type="checkbox"/>	MOORE
<input type="checkbox"/>	<input type="checkbox"/>	POWELL
<input type="checkbox"/>	<input type="checkbox"/>	WATSON
<input checked="" type="checkbox"/>	<input type="checkbox"/>	McINTYRE
<input type="checkbox"/>	<input type="checkbox"/>	SCHULTZE

<input type="checkbox"/>	ENROLLED BILL
<input type="checkbox"/>	AGENCY REPORT
<input type="checkbox"/>	CAB DECISION
<input type="checkbox"/>	EXECUTIVE ORDER
Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day	

<input type="checkbox"/>	ARAGON
<input type="checkbox"/>	BOURNE
<input type="checkbox"/>	BRZEZINSKI
<input type="checkbox"/>	BUTLER
<input type="checkbox"/>	CARP
<input type="checkbox"/>	H. CARTER
<input type="checkbox"/>	CLOUGH
<input type="checkbox"/>	FALLOWS
<input type="checkbox"/>	FIRST LADY
<input type="checkbox"/>	HARDEN
<input type="checkbox"/>	HUTCHESON
<input type="checkbox"/>	JAGODA
<input type="checkbox"/>	GAMMILL

<input type="checkbox"/>	KRAFT
<input type="checkbox"/>	LINDER
<input type="checkbox"/>	MITCHELL
<input type="checkbox"/>	MOE
<input type="checkbox"/>	PETERSON
<input type="checkbox"/>	PETTIGREW
<input type="checkbox"/>	POSTON
<input type="checkbox"/>	PRESS
<input type="checkbox"/>	SCHLESINGER
<input type="checkbox"/>	SCHNEIDERS
<input type="checkbox"/>	STRAUSS
<input type="checkbox"/>	VOORDE
<input type="checkbox"/>	WARREN



THE PRESIDENT HAS SEEN.
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 27 1977

MEMORANDUM FOR THE PRESIDENT

Subject: 1979 Funding Level Appeal of the National
Cancer Institute

By law, the National Cancer Institute (NCI) submits its budget request simultaneously to both OMB and HEW. NCI's original request was \$1,036 million. HEW recommends \$876 million within the initial Presidential allowance for overall NIH funding of \$2.9 billion.

NCI has appealed for its original request of \$1,036 million. We plan to advise NCI that its appeal is being denied and that the \$876 million is affirmed. Your Science Adviser concurs in this position.

Decision

- ☒ Reaffirm \$876 million
- ☐ Allow NCI appeal of \$1,036 million

James T. McIntyre, Jr.
Acting Director

Attachment

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for Preservation Purposes

MEMORANDUM

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC HEALTH SERVICE

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

TO : Director, Office of Management & Budget

DATE: December 12, 1977

FROM : Director, National Cancer Program

SUBJECT: 1979 Budget Appeal

We have been informed that the proposed President's Budget for 1979 contains \$876.185 million for the National Cancer Institute. The 1979 NCI budget estimate to OMB, which totalled \$1,036 million and 2,191 positions, was prepared at six levels, following the Zero-Base Budget format. Each level was carefully examined -- from \$740 million to \$1,036 million. The budget was developed with the advice and support of the National Cancer Advisory Board and the President's Cancer Panel. In light of NCI program needs and scientific opportunities, we must appeal the proposed budget level.

The proposed President's Budget level of \$876.185 million for the National Cancer Institute for fiscal year 1979 represents an increase of approximately 1% over the appropriation of \$867.136 million for fiscal year 1978. Since this is insufficient even to meet the increasing demands of inflation, it would require reduction of program. Such an impact would be especially unfortunate, since there has been little or no growth for NCI in terms of constant dollars (based on fiscal year 1970 dollars) during the past four years since 1975. An appropriation level of \$876.185 million translates into \$474 million in constant dollars, which would amount to a 9.4% decrease from the fiscal year 1975 level.

In order to sustain the momentum that has been generated in the National Cancer Program, and to avoid curtailing activities in areas of promise, a budget of \$1,036 million is required. Without this level of support, the efforts of many scientists throughout the country who have been recruited into the program could not be utilized fully. Because of the sacrifice in their productivity, timely opportunities for progress in the prevention of cancer and in the detection, diagnosis, and treatment of the disease would be neglected.

In the area of cancer prevention, there is mounting awareness of the role of environmental factors in the causation of cancer and a growing need for support by NCI to the federal regulatory agencies concerned with this problem. This has given special urgency to, and increased demand for, our activities in environmental carcinogenesis. Vigorous pursuit of existing program approaches can be expected to contribute significantly to improved knowledge of risk factors and more effective approaches to cancer prevention.

Similarly with respect to the detection, diagnosis, and treatment of cancer, current leads are sufficiently promising to merit vigorous follow-up. The survival of patients with certain forms of cancer has improved dramatically in recent years through advances in the combined use of surgery, radiation, and drugs. These advances have been most striking in the leukemias, lymphomas, and other malignancies which attack children and young adults. In Hodgkin's Disease, for example, it is now possible to enable more than 90 percent of patients with early stages of the disease to enjoy long-term survival ("five-year cures"). Such improvements are reflected in a steady decline of the overall mortality rate from all forms of cancer combined in the age groups under 45. In older age groups, the results are less dramatic, but preliminary findings suggest that encouraging progress may be obtained through the application of similarly intensive chemotherapy as an adjuvant to surgery and radiation in the treatment of the more common types of cancer (e.g., cancer of the breast, lung, ovary, colon/rectum, and head/neck, which account for about 50 percent of all cancers).

Some of the most important and promising investigations that would not be possible with a funding level of no more than \$876.185 million include the following:

-- In the area of cancer prevention, studies on the effect of diet and nutrition in transitional populations (those which are involved in geographical relocation), which could provide insight into the influence of diet and lifestyle on cancer incidence, would have to be deferred. Also curtailed would be research on techniques for early diagnosis of cancer, methods for identification of high-risk groups, approaches toward refinement of bioassay techniques, and investigation into the role of psychological factors in the cause and progression of cancer.

-- In the area of cancer treatment, it would not be possible to extend randomized controlled clinical trials into many new areas of opportunity, such as head and neck cancer, uterine cancer, pediatric brain tumors, and bladder cancer. (The cost per patient in clinical trials has increased in recent years from roughly \$1,000 to \$1,500, and the conduct of one clinical trial costs, in general, about \$1 million). In addition, it would not be possible to perform follow-up studies to the extent needed to resolve questions raised by existing trials in breast, colon, ovary, rectal, and lung cancer, or to evaluate newer forms of radiation therapy and immunotherapy. Drug development would also have to be decreased.

-- In the area of cancer control and rehabilitation, terminal care and pain rehabilitation research programs would have to be curtailed.

-- In the area of basic biology, our efforts to understand how growth is regulated in normal cells and what goes wrong in cancer cells would be reduced. Work on how signals from the surface of the cancer cell can slow or stop growth would be delayed, as would studies of how the immune system can regulate the growth of cancer cells.

In summary, the programs of the National Cancer Institute were studied carefully through the Zero Base Budget process. Those which are recommended for funding are important, promising, and deserve to be funded. To allow for this, NCI should be budgeted at a level of \$1,036 million for fiscal year 1979. Viewed in comparison with the many other demands which are placed each year on the budget of the United States, the devastation caused by cancer -- it accounts for 690,000 new cases and 385,000 deaths per year, with an economic loss to this country of about \$20-\$25 billion annually -- amply justifies an investment of \$1,036 million.



Arthur C. Upton, M.D.

THE WHITE HOUSE
WASHINGTON
December 28, 1977

Jim Fallows

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: STATE OF THE UNION SPEECH
AND MESSAGE

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
X	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI	
		MONDALE
		COSTANZA
		EIZENSTAT
		JORDAN
		LIPSHUTZ
		MOORE
		POWELL
		WATSON
		McINTYRE
		SCHULTZE

	ENROLLED BILL
	AGENCY REPORT
	CAB DECISION
	EXECUTIVE ORDER
	Comments due to Carp/Huron within 48 hours; due to Staff Secretary next day

	ARAGON
	BOURNE
	BRZEZINSKI
	BUTLER
	CARP
	H. CARTER
	CLOUGH
X	FALLOWS
	FIRST LADY
	HARDEN
	HUTCHESON
	JAGODA
	GAMMILL

	KRAFT
	LINDER
	MITCHELL
	MOE
	PETERSON
	PETTIGREW
	POSTON
	PRESS
	SCHLESINGER
	SCHNEIDERS
	STRAUSS
	VOORDE
	WARREN

THE PRESIDENT HAS SEEN.
THE WHITE HOUSE
WASHINGTON

December 17, 1977

To Jim
Work closely with
Schultz, Ham,
Stu -
JC

MEMORANDUM TO THE PRESIDENT

FROM: JIM FALLOWS *JF*

SUBJECT: State of the Union Speech and Message

As you asked at our meeting on December 7, I am submitting a list of the suggestions from all the Departments and many of the independent agencies for the State of the Union. (Only ~~three~~² Departments are missing: ~~Justice, because it did not send me a list;~~ Treasury, because Secretary Blumenthal said his suggestions would depend on the decisions made at the Economic Policy staff meeting on Monday; and Energy, because they said it's impossible to make recommendations while things are changing day by day in the Congress).

You agreed at our meeting to the idea of two State of the Union messages -- the speech itself, which would focus on the economy and have a brief foreign section; and a much longer written message, which could include all the other suggestions the Departments want to make.

You will see from the attached list that the great majority of these suggestions seem better suited to the written message than to the speech. I've placed an asterisk next to those ideas which might be suitable for the speech; the rest I recommend for the written message. If you disagree with the recommendations please just indicate so.

After you have approved the division of subjects between speech and message, I will consult with Charlie Schultze, Stu, Secretary Blumenthal, Dr. Brzezinski, the Vice President, and others to draw up a specific outline of the speech. Most of them have recommended not producing an outline yet, while some of the basic economic decisions have still to be made.

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*Brief-
congratulations
on 1.77*
** Energy Policy - #1*
** Reorganization*

Agriculture

- * 1. We cannot permit our agriculture to lose its competitive position in world trade -- exports should be expanded, as should Food for Peace.
- 2. The Farm Bill will bring these benefits in the coming year: higher income supports for basic crops; target price payments for some commodities; a farmer-owned and controlled food reserve program through commodity loans; even out boom-bust farm price cycles; reform domestic Food Stamp program.

Department of Commerce

- * 1. The President must clearly explain his economic policy.
- * 2. The President should discuss the 1981 goals for employment, inflation, and the budget.
- * 3. The President should identify a number of major cyclical and economic adjustment problems. (Local public works programs, drought program, trade adjustment, economic adjustment).
- 4. In preparing for the 1980 Census, much attention must be given to the right of privacy.

Department of Defense

- * 1. The Administration must continue to take the lead to strengthen the defense of Western Europe through initiatives to improve the deterrent forces of NATO.
- * 2. We must continue our progress in limiting the number of strategic nuclear delivery vehicles.
- 3. The strategic nuclear forces will still be based on TRIAD. Research and development should increase for the MX ICBM.
- 4. The combat capability of the South Korean ground forces must be augmented to ensure peace in Korea. (In line with the phased withdrawal of U.S. ground combat troops.)
- * 5. The U.S. should ^{reduce} recude its participation in conventional arms transfers.

Department of Health, Education and Welfare

- * 1. National health insurance: announce principles and send legislation to Congress. (Doesn't fit economic theme, but important to mention briefly.) *Hospital Cost Containment*
- * 2. Welfare reform -- get legislation through House and Senate.
- 3. Drug law reform -- completely restructure nation's drug laws and get legislation through Congress by June 1978.

Department of Housing and Urban Development

- 1. Goals:
 - * a) revitalize urban areas by targeting new and rehabilitative housing programs into deteriorating cities (local development equals jobs).
 - b) expand housing options to include all people.
- 2. Proposed Small Cities Program would allow cities of less than

HUD - (continued)

50,000 to receive more community development funds with a minimum of paperwork.

- # 3. End moratorium (begun under Nixon's bad plan) on subsidized housing for low and moderate income families. High goals have been set for FY 1978.
- * 4. Reduce inflation [in the housing industry.]
- # 5. Encourage middle-income families to return to the cities. Prevent poorer old residents from being unfairly dislocated via urban renewal.

Department of Interior

1. Developing a national water policy should be our prime goal in 1978. (Recommendations to be sent to Congress early in the session.)
2. Other goals: set up system for funding of federal water projects; recommend changes in the 1902 Act (after studying "excess lands" restrictions) to allow family farmers to own more land.
3. We will soon suggest an urban recreation program.
4. We will propose a policy for developing the natural resources in 75% of Alaskan lands. Ninety-two million acres are to be protected from development.
5. More must be done to rescue our national parks and wildlife refugees from disrepair and neglect.
6. We have asked Congress to expand the Redwood National Park in Northern California. Workers who would lose their jobs through the expansion will be helped finding other jobs.
7. The President ought to reaffirm his support of Indian rights.
8. DOI is overseeing Outer Continental Shelf development and leasing. Need early action by Congress in 1978 to amend the OCS land Act.
9. Better enforcement of surface Mining Act.
10. Reform of the nation's Hardrock Mining Loans.
11. Need a new federal coal leasing program.

Department of Labor

- * 1. As well as being compassionate and competent, the government's economic policies must be practical. We must adjust to the many economic shocks the U.S. has had since WWII.
- * 2. Suggest a 4-part strategy:
 - a. Expand the economy (through a tax, spending, and credit policy) by 5% annually for at least the next 3 years.
 - b. Structural employment policies (including welfare reform, youth programs, and urban programs) must go into effect.

Labor - (continued)

c. We need inflation policies to offset the inflationary bias of the last decade.

d. We need an international economic policy to better distribute the trade surplus.

* 3. We need to continue tax, spending, and credit policies to create an economic recovery of unprecedented length.

* *Labor Law Reform*

Department of State

* 1. We must encourage industrialized nations to reach their growth targets, so as to reduce our own unemployment and help stimulate economic development in the Third World. (Global economic recovery). *minimal*

* 2. We must seek freer trade (MTN), stable prices, and growth in developing areas of the world.

* 3. If we reach what we seek with SALT in the next few months, it will have many ramifications. (Reduce risk of nuclear war, set an example of our determination in this area, start reducing costly and expensive stockpiles of nuclear weapons.) *include CTB*

* 4. The Panama Canal treaties would put our rights on a solid new legal basis and symbolize our new cooperative spirit. *Brief, strong*

Department of Transportation

1. Public transportation (inner city rail, bus, rail systems, better use of existing highways) must become an alternative to the private auto.

* 2. There must be a comprehensive transportation policy -- a reduction from 30 to 10 programs is necessary, followed by a reorganization of the Department of Transportation.

3. Federally-funded transportation systems (such as the railroads) are in a sad state. There needs to be a consolidated and consistent master plan.

4. Users of the inland waterway system should, along with the federal government, begin to pay for it.

5. Certain parts of highways and railways must be brought up to higher standard to handle the movement of coal.

6. The country's 25 largest cities should have greater control over special funds, which must be used to improve housing and the environment, and conserve energy.

7. Rural public transportation needs help.

8. We should push for legislation to reform regulation of the commercial aviation industry.

9. The 55 mph speed limit must be enforced.

* *Deregulation - Competition*

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National Security Council

- * a) Change in East/West and Soviet/American Relationship
 - i) Arms Control and Arms Limitation
 - SALT
 - CTB
 - Indian Ocean Negotiations
 - Arms Transfer Policy
 - ii) Western Europe/NATO/EC
 - Reaffirmed and strengthened commitment to NATO
 - Reaffirmed our commitment to European unity
- * b) Creative US Involvement with Third World
 - i) Panama
 - ii) African initiatives
- * c) Global Issues
 - i) Human Rights
 - ii) non proliferation
- * d) Middle East/Geneva

Central Intelligence Agency

1. Centralize many, or most, intelligence tasks.
2. Generally reorganize the CIA.

*good
one sentence*

Environmental Protection Agency

1. Government must continue to be diligent in reducing people's exposure to toxic substances in the environment. Prevention of environmentally-induced diseases is a high priority.
2. *X* [Second goal is improving the management of the federal government.] Regulatory agencies must become more interested protecting the public rather than protecting special interests.

Equal Employment Opportunity Commission

1. We must show particular sensitivity to women's rights.
2. Reaffirm support of affirmative action.

Export - Import Bank of the U.S.

- * 1. We need a coherent international trade policy, as we approach a \$30 billion trade deficit this year. *at - don't tie to ExIm*

Federal Communications Commission

1. The government must be alert to new possibilities for applying technology.

Federal Trade Commission

1. The public needs more accurate information concerning: nutrition, cost of energy, health care.
- * 2. Economic power should not be centralized in a small number of gigantic firms.
3. While protecting our vital industries, we should do everything possible to see that consumers enjoy the benefits of free international trade.

* *Anti-trust, etc*

General Services Administration

1. Continue the following:
 - a. reduce energy consumption in federal and historic buildings
 - b. support solar energy demonstration projects
 - c. building demonstration projects for energy conservation
 - d. making federally-owned and leased vehicles more fuel efficient
 - e. relocating federal agencies in central business districts
 - f. recycling wastepaper
 - g. expanding the "living buildings" program
 - h. improve the design of federal buildings in the art-in-architecture program

Interstate Commerce Commission

1. Congress must act to reduce the membership of the Commission from 11 to 7.
2. The economic regulation of motor carriers must be reformed.

National Aeronautics and Space Administration

1. We must reduce aviation fuel consumption by $\frac{1}{2}$ in the next decade (save 100 barrels/yr. and reduce pollution of atmosphere by 90% to allow U.S. aircraft to meet all clean air standards).
2. We should reaffirm our commitment to the Space Shuttle.

Occupational Safety and Health Review Commission

1. Express more concern for the rights of employees and small business employers in settling OSHA cases. (Adapt rules to allow informal speedy procedure and waive the formal one).

Securities and Exchange Commission

1. A national market system for securities is necessary; it is essential to maintain investor confidence in our securities markets.

Small Business Administration

1. We must cut federal red tape, paperwork, and restrictive tax laws that hinder both the SBA and its clients.
- * 2. One of the highest priorities is helping more women and minorities set up their own businesses.

SBA - (continued)

- * 3. The Business Revitalization Program, which is now being tried out in 23 cities, is helping declining businesses and thereby creating jobs, improving real property values, strengthening the local tax base.

- X 4. [^{use}Small businesses] share of federal contracts in 1978 should be \$18 billion.
just mention Sm Businesses somewhere

* U.S. Arms Control and Disarmament Agency

1. National and international security can be promoted via SALT, comprehensive test ban, restraints on conventional arms transfers and chemical weapons control.

U.S. Commission on Civil Rights

- * 1. We must concentrate on the disproportionately high rates of unemployment among women and minorities.
2. We must reaffirm the Administration's commitment to affirmative action.
3. We must reaffirm our commitment to civil and human rights in this society, as well as abroad.

United States Information Agency

1. We should establish an Agency for International Communication, as proposed in our Reorganization plan.

U.S. International Trade Commission

- * 1. We should pursue more vigorously unfair trade practices by foreign competitors.
- * 2. We need more flexibility in giving aid to domestic firms threatened by foreign competition.
3. We should consider whether we need a new Dept. of Inter-
national Trade Investment. *no*

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Justice

- * 1. The Justice Department must develop a crime program focusing on organized crime, white collar crime, public corruption, and drug trafficking.
- 2. A goal is to get a new Federal Criminal Code through the Congress in 1978. (The most comprehensive revision of our federal criminal law in the nation's history.)
- 3. Another goal is better resolution of disputes. One idea is an experiment with compulsory but non-binding arbitration in some federal civil cases. (One step is to improve the conduct of litigation.)
- 4. We need an electronic surveillance bill, federal relief for victims of crime, and a bill to keep juveniles out of hard-core jails.

THE WHITE HOUSE
WASHINGTON

December 28, 1977

Hamilton Jordan

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: APPOINTMENT TO FOURTH CIRCUIT
COURT OF APPEAL (N.C.)

THE WHITE HOUSE
WASHINGTON

	FOR STAFFING
	FOR INFORMATION
/	FROM PRESIDENT'S OUTBOX
	LOG IN/TO PRESIDENT TODAY
	IMMEDIATE TURNAROUND

ACTION	FYI
/	

MONDALE
COSTANZA
EIZENSTAT
JORDAN
LIPSHUTZ
MOORE
POWELL
WATSON
McINTYRE
SCHULTZE

ENROLLED BILL
AGENCY REPORT
CAB DECISION
EXECUTIVE ORDER

Comments due to
Carp/Huron within
48 hours; due to
Staff Secretary
next day

ARAGON
BOURNE
BRZEZINSKI
BUTLER
CARP
H. CARTER
CLOUGH
FALLOWS
FIRST LADY
HARDEN
HUTCHESON
JAGODA
GAMMILL

KRAFT
LINDER
MITCHELL
MOE
PETERSON
PETTIGREW
POSTON
PRESS
SCHLESINGER
SCHNEIDERS
STRAUSS
VOORDE
WARREN

Ham

THE WHITE HOUSE
WASHINGTON

December 27, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: HAMILTON JORDAN *H. J.*

SUBJECT: Appointment to Fourth Circuit Court
of Appeals (North Carolina Vacancy)

Attached are the Attorney General's recommendations, a joint memorandum from Bob Lisphutz and Frank Moore, and a separate memo from Frank all relating to this appointment.

This is a difficult one and presents problems not easy to solve. If we take McMillan, whom the Attorney General and Lipshutz think most qualified, we risk alienating Senator Morgan seriously in Frank's opinion. Frank and his people have been very responsible on matters of this sort, and I trust his judgment on probable reaction by the Senator. Because of this and the general political problems in North Carolina, I recommend you take no action at this time but direct Frank, Bob, the Attorney General and myself to try to find some way to get ourselves out from under with minimal political risk.

Approve McMillan appointment _____

Approve Phillips appointment _____

Have group try to work out alternative _____

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*Try to work out
either Phillips or
McMillan & Morgan -
Don't commit me
JD*

THE WHITE HOUSE

WASHINGTON

December 23, 1977

MEMORANDUM FOR THE PRESIDENT

THROUGH: Hamilton Jordan *NO*
FROM: Bob Lipshutz *PL*
Frank Moore *Am.*
SUBJECT: Appointment to Fourth Circuit
Court of Appeals (North Carolina
Vacancy)

*I have doubts on
this. We should slow
this down before we*

Attached is a memorandum to you from the Attorney General relative to this appointment.

We urge that you appoint Judge James B. McMillan of Charlotte to this vacancy:

1. We concur with the Attorney General and Senator Sam Ervin that he is the best-qualified person among those submitted by the Judicial Nominating Panel.
2. While he has some popular and political opposition, based primarily on some of the decisions which he made in civil rights matters as a United States District Court Judge, he also has some very strong popular and political support in the state of North Carolina.
3. Although Senator Morgan has voiced opposition to the appointment of McMillan, he could not be expected to express real support for any of the five persons on this list. Furthermore, we doubt that he would seek to hold up the appointment of either McMillan or Phillips, even though he might find it easier to accede to the appointment of Phillips. (Frank disagrees; see attached memo.)
4. Senator Helms is opposed to everyone on the list and actually wants us to open up the nomination process once again, which we think would be a very big mistake in this case or in other cases. Furthermore, it is unlikely that someone selected

by Senator Helms would be someone in whom you would have confidence to appoint!

5. Should there be serious opposition expressed in the course of the Senate confirmation hearings, we believe that the personal appearance of Senator Sam Ervin, which he has volunteered, would overcome any such opposition.

6. This appointment would be well-received by a number of your national constituency groups.

_____ Approve selection of Judge McMillan.

_____ Approve selection of Dickson Phillips

_____ Other

THE WHITE HOUSE

WASHINGTON

December 23, 1977

MEMORANDUM TO ROBERT LIPSHUTZ

FROM:

FRANK MOORE

F.m.

SUBJECT:

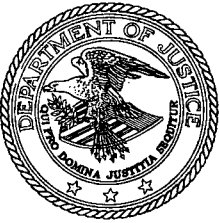
Fourth Circuit Court of Appeals Appointment

I accept yours and the Attorney General's word that McMillan is the best qualified. I disagree with your analysis that Senator Morgan would not attempt to hold up the appointment of McMillan. I think with two appointments over here, he would generate a hell of a campaign against McMillan for the purpose of getting Phillips.

Since the Governor is for Phillips and most of the Party, and they are afraid that McMillan will be replaced by a black not to their liking, we would have a hard time getting McMillan confirmed.

I do not worry about Senator Helms at all. We need to challenge the Republican blue slip prerogative some time, and I doubt this is the best one to win on with Eastland. Eastland's likely course is to delay it knowing he will have to give in sometime, and this will play into the hands of Helms--who would love to have McMillan as an issue in his election campaign.

If you want to go ahead with McMillan, I would like to talk with Morgan one more time just to see what all we will lose him on. I would hate to go through a protracted battle for McMillan and lose Morgan on Panama, SALT and give Helms a popular issue against Luther Hodges, and still end up getting Phillips.



Office of the Attorney General
Washington, D. C. 20530

December 21, 1977

MEMORANDUM TO THE PRESIDENT

RE: Fourth Circuit Court of Appeals
North Carolina Vacancy

A copy of the Judicial Nominating Panel's report is attached, along with resumes on the five persons recommended. The two best candidates on the list, in order of preference, are: 1. Judge McMillan and 2. Dickson Phillips.

Judge McMillan was an excellent practitioner before going on the District Court. He is the only candidate with judicial experience. In his judicial service he has had to make some decisions in civil rights matters which have not been popular in North Carolina. I do not feel he should be punished for this. He has the strong support of former Senator Sam Ervin, whose letter is attached.

While I feel that McMillan is the best candidate, Dickson Phillips would be the most popular in North Carolina, where he has served as dean of the North Carolina Law School and has generally avoided controversy.

Senator Morgan and Senator Helms have both voiced opposition to the appointment of McMillan. Both, in fact, have expressed opposition to everyone on the list, but I doubt they would seek to hold up the appointment of Phillips.

Griffin B. Bell

Griffin B. Bell
Attorney General

Attachments

United States Circuit Judge Nominating Commission

FOURTH CIRCUIT PANEL

Please reply to:

Wesley M. Walker, Chairman
217 East Coffee Street
Post Office Box 2248
Greenville, South Carolina 29602
803/242-6440

September 1, 1977

The President
The White House
Washington, D. C.

Dear Mr. President:

It is my pleasure to present herewith the recommendations of the United States Circuit Judge Nominating Commission for the vacancy on the Court of Appeals for the Fourth Circuit.

The Commission held its meetings pursuant to the notices published in the Federal Register and there was virtually full attendance of the members. During these meetings the Commission interviewed thirteen candidates and I am happy to say that at all times and in all respects the members of the Commission were vitally interested, concerned and fully dedicated to their duties and responsibilities.

The following are the five persons whom we wish to recommend, listed in alphabetical order with post office addresses:

William Van Alstyne, Esquire
Room 231 Law Building
Duke University
Durham, North Carolina 27706

Julius L. Chambers, Esquire
Suite 730, East Independence Plaza
951 South Independence Boulevard
Charlotte, North Carolina 28202

The President

September 1, 1977

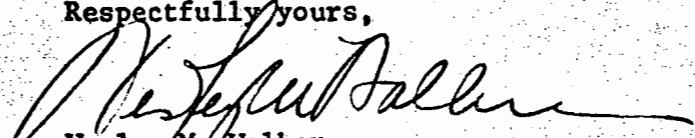
Honorable James B. McMillan
United States District Judge
Room 254
United States Post Office and Courthouse
Charlotte, North Carolina 28231

J. Dickson Phillips, Esquire
University of North Carolina
School of Law
Chapel Hill, North Carolina 27514

A. Kenneth Pye, Esquire
Office of Chancellor
Allen Building
Duke University
Durham, North Carolina 27706

Also, please find herewith the completed questionnaires for the above-named five persons. Each of these applicants submitted additional material including samples of their professional writings, opinions, etc. which I am retaining for the present time. If the additional material is desired with respect to the above-named persons, I will transmit the same promptly upon instructions from The White House or the Office of the Attorney General.

Respectfully yours,



Wesley M. Walker
Chairman of the Panel

SAM J. ERVIN, JR.
P. O. BOX 69
MORGANTON, NORTH CAROLINA 28655

AREA CODE 704
437-5532

December 9, 1977

DEC 12 1977
[Handwritten signature]

Honorable Griffin B. Bell
Attorney General
Department of Justice
Washington, D. C.

Dear Judge Bell:

In view of the fact that he had a distinguished legal career before becoming a Judge, and has had much judicial experience, I believe that United States District Judge James B. McMillan of Charlotte would be the most appropriate appointee to fill the vacancy on the Court of Appeals for the Fourth Circuit occasioned by the death of Judge Craven.

Judge McMillan is a tireless student of the law, possesses complete intellectual integrity, and will render decisions according to law as he understands it, regardless of whether they are popular or unpopular.

Moreover, he is an extremely patient man and will give the most thoughtful attention to any argument made before him.

With all kind wishes for the Christmas Season, I am

Sincerely yours,

Sam J. Ervin, Jr.
Sam J. Ervin, Jr.

SJE:vm

AUGUST KENNETH PYE

Born August 21, 1931, New York, New York. B.A. 1951, University of Buffalo (graduate in three years, summa cum laude, Phi Beta Kappa, vice-president, student government, major letter in fencing); J.D. 1953, LL.M. 1955, Georgetown University Law Center (graduated in two years, ranking first in accelerated group or second in class of 1953 or third in class of 1954, member, National Moot Court team which won national championship, secretary of student government, Order of the Coif).

Experience:

1953-55

While studying for LL.M. was on active duty with the Army. Represented the government in appeals from general court martials;

1955-1966

Professor of law, Georgetown University;

1956-59

Associated with firm of Chase & McChesney, Washington, D. C. Summer, 1959, taught comparative criminal procedure at Goethe University, Frankfurt;

1960

Became first director of the legal internship program at Georgetown;

1961

Became associate dean of the law center;

1966-67

Program specialist in legal education with the Ford Foundation in India;

1967-present

Various positions at Duke University Law School. 1968, Dean of Duke Law

Law School. July, 1970-September, 1971, Chancellor, Duke University (roughly equivalent to position of executive vice-president of corporation). 1971 to 1973, University Counsel, (roughly equivalent to general counsel of a corporation). 1973 to 1976, Dean of the Law School. 1976 to present, Chancellor of Duke University. Has continued to teach throughout his years with Duke University.

Comments:

Does not have extensive litigating experience, although, has tried a number of cases before court's martial and subsequently during his tenure as a professor. Ninety percent of litigation experience has been criminal and almost all of it in federal courts. Has taught a large variety of courses, including civil procedure, criminal procedure, legislation, evidence, criminal law, agency, conflict of laws, domestic relations, partnerships, the legal profession and the seminar on legal problems of the University. Has a three page list of publications. Served as chairman of the most significant committees at both Duke and Georgetown. Has been an active member of the Bar and has served on several professional committees, including Chairman of the judicial conference of the District of Columbia Circuit Committee on Federal Rules of Criminal Procedure, trustee, Public Defender Agency for the District of Columbia, Chairman, District of Columbia Law School. 1967-present

Columbia Bail Project, Chairman, Board of Directors' Neighborhood Legal Service Project and Chairman, Task Force on Apprehension and Suppression, Governor's Committee on Law and Order in North Carolina. Is on the Board of Directors of the Durham Chamber of Commerce and the Durham YMCA.

JAMES DIXON PHILLIPS, JR.

Born September 23, 1922, Scotland County, North Carolina, B.S. 1943, Davidson College (Phi Beta Kappa, Captain, Varsity Baseball); LL.B. 1948, University of North Carolina School of Law (Associate Editor, North Carolina Law Review; Order of the Coif).

Experience:

1948-49	Assistant Director, Institute of Government, Chapel Hill, North Carolina;
1949-1960	Private law practice successively with the law firms of Phillips & McCoy, Laurinburg, North Carolina; Sanford, Phillips, McCoy and Weaver, Fayetteville, North Carolina (now known as McCoy, Weaver, Wiggins, Cleveland and Raper).
1960-present	Member of Faculty, School of Law, University of North Carolina; Dean from 1964-74.

Comments:

His law practice was general criminal and civil practice, including real estate, probate, administrative law, contract and property matters, state planning and corporate law. He appeared in court regularly, principally in state courts and in civil cases, with a high percentage of jury trials. As a law professor, he has taught contracts, real property, personal property, legal method, agency, remedies, civil procedure, trial and appellate practice, estate and gift tax,

trial advocacy and appellant review seminar. He is currently alumni distinguished professor of law. He has been appointed by the governor to serve on the North Carolina Wildlife Resources Commission (1961-63), the North Carolina Courts Commission (1963-75, vice-chairman), and the North Carolina Board of Ethics (1977). Was candidate for Democratic nomination as Solicitor of Scotland County Records Court in Spring of 1950. Has a few publications, principally in the North Carolina Law Review. Several of them are on appellate procedure. Has served on several committees at the University in recent years, including a Committee on Affirmative Action and the faculty hearings committee (tenure hearings). Was a member of the Board of Governors of the North Carolina Bar Association from 1961-64 and was chairman of the Committee of the National Conference Bar Examiners to determine feasibility of testing in civil procedure from 1974-76. In 1975, received a memorial award from the North Carolina Bar Association for service to the cause of jurisprudence in North Carolina and in 1977 received the Thomas Jefferson Award by the University of North Carolina. From time to time in recent years, he has acted as special counsel to various law firms in litigation matters, especially at the appellate level. This does not involve court room appearances.

JAMES BRYAN McMILLAN

Born December 19, 1916, Goldsboro, North Carolina. A.B. in Economics, University of North Carolina, 1937. LL.B., Harvard Law School, 1940 (moot court).

EXPERIENCE

1939 Law clerk, McLean & Stacy, Lumberton, N.C.

1940-1942 Office of the Attorney General of North Carolina

1942-1945 United States Navy, achieved rank of senior Lieutenant (bomb disposal officer)

1946-1968 Helms, Mulliss, McMillan & Johnston of Charlotte, N.C.

1968-present United States District Judge, Western District of North Carolina

COMMENTS

Judge McMillan presided over Swann et. al. v. Charlotte-Mecklenburg Board of Education. Also ruled in favor of a fired school teacher in Moore v. Gaston County Board of Education (issues were similar to Scopes monkey trial.) In Carolina Environmental Study Group v. United States Atomic Energy Commission, he ruled unconstitutional the Price-Anderson Act's limit on total amount of recovery for all persons who might be injured in a nuclear power plant accident. Rulings have generally upheld civil liberty positions, particularly in several cases involving rights of school children to due process and free speech. Ruled against the FCC in Jefferson Standard Broadcasting Co. v. Federal Communications Commission, commenting on the

FCC's action in this case as "grossly arbitrary." Ostensibly a tax case, Judge McMillan suspected it also involved "a purpose to dominate the broadcaster." Prior to appointment to the federal bench, his practice was primarily civil, especially in the casualty insurance field. Much litigating experience. Not many publications, outside of opinions. His writing has a humorous, folksy quality. As a young attorney, he successfully defended a livestock yard against a suit by a mule dealer who had been kicked at a sales stable. McMillan cited Exodus 21, verses 28 and 29, and asserted that a mule was entitled to one kick. Former president of North Carolina Bar Association. Played significant role in drafting legislation to create the North Carolina district court system, as a member of the North Carolina Courts Commission.

WILLIAM WARNER VAN ALSTYNE

Born February 8, 1934, Chico, California. BA, 1955, University of Southern California (Magna cum laude, student body president, Phi Beta Kappa); J.D., 1958, Stanford University Law School (1st place Moot Court, Order of the Coif)

EXPERIENCE

1958-59	Attorney in Civil Rights Division of US Justice Dept., recruited through Attorney General's Program for Honor Law Graduates
1959-61	Assistant Professor of Law and Assistant Dean, Ohio State University School of Law
1961-63	Associate Professor, Ohio State University Law School
1964	Full Professor, Ohio State University Law School
1965-	Full Professor, Duke University Law School. In 1973
present	was named William R. Perkins Professor of Law at Duke

COMMENTS

Van Alstyne describes his legal practice as follows: "In the course of becoming a full time law teacher. . . I resolved to participate in litigation only to the extent that . . . it would contribute to my abilities as a teacher and a scholar. . . and solely as a means of making. . . certain that what I might teach or write was. . . well connected with the realities of what courts, agencies, and legislative bodies do." He has helped brief and argue several cases in the federal courts that raise constitutional issues, principally as amicus curiae. Such cases were selected based on "relevance of certain legal issues to the subjects I teach."

Has taught Constitutional Law, Conflicts of Law, Federal Practice of Civil Rights, Contracts, Administrative Law, State and Local Government. Extensive writing, particularly on matters of Constitutional law and civil liberties. Former National President and General Counsel of the American Association of University Professors. National Board of Directors of American Civil Liberties Union, 1972-76. One of 15 American law scholars invited by the Federal Republic of Germany to participate in comparative constitutional law seminar in Bonn during 1976, part of the Bicentennial observance. Honorary LL.D. from Wake Forest University.

JULIUS LeVONNE CHAMBERS

Born October 6, 1936, Mt. Gilead, North Carolina. B.A., 1958, North Carolina College at Durham (Summa cum laude, student government president, numerous honor societies) MA in history, 1959, University of Michigan (Woodrow Wilson Scholarship). J.D. with High Honors, 1962, University of North Carolina School of Law (Order of the Coif, Order of the Golden Fleece, Editor of Law Review.) Masters of Laws Degree, 1963, Columbia University School of Law.

EXPERIENCE

1963	Taught first-year law students at Columbia Law School while obtaining Masters of Law degree
1964-68	Practice law alone in Charlotte, NC
1968 - present	Partner in Chambers, Stein, Ferguson & Becton, P.A. Charlotte, N.C.

COMMENTS

Extensive litigating experience in civil rights area. Chief counsel for plaintiffs in Swann v. Charlotte-Mecklenburg Board of Education. Also Chambers v. Hendersonville City Board of Education, successfully representing black teachers who had been terminated in the implementation of a desegregation plan) and Coppedge v. Franklin County Board of Education, requiring the abandonment of a freedom-of-choice desegregation plan. Also litigated a number of employment discrimination cases, including one affirming the right of an individual plaintiff to bring a class action suit against Albemarle Paper Company. From 1965 to 1969 was United States Commissioner in the Western Dis-

trict of North Carolina, presiding over probable cause and bail hearings. Extensive work for the NAACP Legal Defense & Education Fund, including service as President of the Board. Honorary J.D. from St. Augustine's College. Frequent guest lecturer at law schools, including University of Pennsylvania and University of Virginia. Many "distinguished service" awards from local organizations and chapters.